

## **REMARKS**

The Office Action mailed June 8, 2004 has been received and the Examiner's comments carefully reviewed. Claims 1, 10, 12-14, 16, 18, and 21 have been amended; the amendments are supported throughout the application. In particular, the amendments to claim 1 are supported at figures 16 and 19; page 6, lines 18-26; and page 11, lines 20-23. The amendments to the remaining amended claims are editorial in nature and are supported at figures 16 and 22; page 6, lines 3-10; page 7, lines 10-16; page 10, lines 27-30; and page 12, lines 3-6. Claims 1-21 are currently pending in this application. Applicants respectfully submit that the pending claims are in condition for allowance.

### **Anticipation**

Claims 1-5, 7-8, 12-13, 18, and 20 were rejected under 35 U.S.C. 102(e) as being anticipated by Menard et al. (U.S. Pub. No. 2003/0,013,503 A1) ("Menard"). This rejection is traversed.

Claim 1 is directed at an intercom system including, among other things, a wireless intercom unit, a base station that communicates with the intercom unit, and a speaker post that communicates with the base station. The system of claim 1 is advantageous in a quick-service restaurant. The speaker post can be used to communicate with customers in a drive-through lane while the wireless intercom unit can be used by a restaurant employee to take orders. The wireless intercom system of claim 1 has a first side configured to interface with a planar surface, and has a microphone, speaker and input device on a portion other than the first side. As a result, the wireless intercom system can be easily placed or hung on a surface anywhere in a quick-service restaurant or retail store without the need to wear the intercom or wire a connection to the intercom.

Menard fails to disclose at least the above-recited features. In particular, Menard fails to disclose or suggest an intercom system including both a wireless intercom speaker configured as in claim 1 and a speaker post that communicates with the base station. The disclosure in Menard relates to intercom units adapted to be mounted in the walls of a house. See Menard paragraphs [0010-0012]. Menard includes no disclosure with respect to a speaker post. Menard is focused on a specific Bluetooth® transceiver configured for a home or office environment that allows extension of the range of the intercom. Menard neither describes or suggests the combination of

components found in claim 1 which are particularly advantageous in a quick-service restaurant. Accordingly, claim 1 and claims 2-5, 7-8, and 12-13, which depend on and further limit claim 1, are also not anticipated.

Claim 18 is directed to a wireless communication system that includes, among other things, a wireless intercom unit having a transceiver for a first radio frequency range and a receiver for a second radio frequency range, and a switch having a radio frequency transmitter for the second radio frequency range thereby enabling communication between the switch and the wireless intercom unit. Menard fails to disclose at least the above-recited features.

In particular, Menard fails to disclose or suggest a wireless communication system including a switch that can wirelessly communicate with the intercom unit. The only disclosure with respect to a switch is that the wireless communication unit can be mounted such that it is integrated with an ordinary light switch. See Menard paragraph 0012. Accordingly, claim 18 is not anticipated. Claim 20 depends on and further limits claim 18; therefore, for at least the same reasons, claim 20 is also not anticipated.

### **Obviousness**

Claims 6 and 9 were rejected under 35 U.S.C. 103(a) as being obvious over Menard in view of Gets (U.S. D371,784 S). This rejection is traversed.

Claims 6 and 9 depend on and further limit claim 1 and therefore incorporate the speaker post of claim 1. As discussed above, Menard is directed at intercom units for domestic use and fails to disclose or suggest an intercom system having a speaker post. Gets is a design patent that includes no disclosure with respect to a speaker post. Since Gets fails to cure the defects of Menard claims 6 and 9 are not obvious.

Claims 10-11 and 14-15 were rejected under 35 U.S.C. 103(a) as being obvious over Menard in view of Fitzgerald (5,113,428 A). This rejection is traversed.

Claims 10-11 depend on and further limit claim 1 and, therefore, they also incorporate the speaker post which is not disclosed or suggested in Menard. Fitzgerald is directed at a cordless telephone headset and includes no disclosure with respect to a speaker post. As such, Fitzgerald fails to cure the defects of Menard. Accordingly, claims 10-11 are not obvious for at least this reason.

Claims 14 recites a wireless communication system comprising a wireless intercom unit including a first intercom transceiver for a first radio frequency range, and second intercom transceiver for a second radio frequency range, an earpiece including an earpiece transceiver for the second radio frequency range that enables communication between the earpiece and the wireless intercom unit, and a base station including a base station transceiver for the first radio frequency range that enables communication between the base station and the wireless intercom unit. Both Menard and Fitzgerald fail to disclose or suggest the above-recited features and the features of claims 10-11.

In particular, Menard fails to disclose or suggest a wireless intercom unit including a transceiver for communicating with a base station and another separate transceiver for communication with an earpiece. Instead, Menard teaches the inclusion of a single BLUETOOTH® compatible transceiver in an intercom to enable it to communicate with a number of different external devices including, for example, telephones, two-way pages, PDAs, and computers. See Menard at paragraph 0008, and 0048-0088. Since more than one BLUETOOTH® compatible transceiver is not needed to enable the intercom to communicate with more than one device, Menard teaches away from a single intercom including more than one transceiver. It should be noted that the second transceiver discussed in Menard is not a part of the intercom; rather it is coupled to a long-range network for extending the intercom's communication range. See Menard at paragraph 0008 and 0054.

Fitzgerald is directed at a wireless telephone headset for communicating with the base station and remote telephones over the telephone lines. See Fitzgerald at column 3, lines 56-59. The headset has "a transmitter 80 and a receiver 82 for transmitting and receiving signals from the base station 11." See Fitzgerald at column 3, lines 29-31 and at Figure 3. In Fitzgerald, the "intercom" unit 10 is physically connected to the earpiece 94. Communication between the various components of the "intercom" is via electrical current rather than RF frequency. Accordingly, Fitzgerald also does not disclose or suggest intercom units having a transceiver for communicating with a base station and another separate transceiver for communication with an earpiece. Since Fitzgerald does not cure the defects of Menard, claim 14 is not obvious. If the rejection of claim 14 is maintained, the Examiner is respectfully requested to elaborate on how the alleged combination would utilize the structures of Menard and Fitzgerald. Claim 15

depends on and further limits claim 14; therefore, claim 15 is not obvious for at least the same reasons.

Claim 17 was rejected under 35 U.S.C. 103(a) as being obvious over Menard in view of Voroba et al. (U.S. 6,311,071). This rejection is traversed.

Claim 17 depends on and further limits claim 14 and, therefore, incorporates the base station transceiver and the first intercom transceiver discussed above. Like Fitzgerald, Voroba et al. is directed at a telephone and fail to cure the defects of Menard. Accordingly, claim 17 is not obvious over Menard in view of Voroba et al.

Claim 19 was rejected under 35 U.S.C. 103(a) as being obvious over Menard in view of Pavitt (U.S. 4,517,413). This rejection is traversed.

Claim 19 depends on and further limits claim 18 and, therefore, incorporates the switch that can wirelessly communicate with the intercom unit over a frequency range. Pavitt is directed at a telephone work station system including a switch that is actuated by the telephone signal. Pavitt does not disclose or suggest that the switch is the type that can wirelessly communicate with the intercom unit over a frequency range. Since Pavitt fails to cure the defects of Menard, claim 19 is not obvious.

Claims 16 and 21 were rejected under 35 U.S.C. 103(a) as being obvious over Menard in view of Fitzgerald and further in view of Nishimoto et al. (U.S. 5,402,497). This rejection is traversed.

Claim 16 depends on and further limits claim 14, which includes a wireless intercom unit and a base station each having a transceiver for communicating with the other, which are not disclosed or suggested by Menard. Nishimoto et al. relate to a headphone apparatus for reducing circumference noise and fail to cure the defects of Menard; therefore, claim 16 is not obvious for at least the same reasons claim 14 is not obvious.

Claim 21 depends on and further limits claim 18 which recites a switch that can wirelessly communicate with the intercom unit over a frequency range. As discussed above Menard fails to suggest or disclose such a switch. Nishimoto et al. fail to cure the defects of Menard; therefore, claim 21 is not obvious for at least the same reasons claim 18 is not obvious.

### Examiner Interview Summary


A telephone conference with Examiner Perez was conducted on August 17, 2004 by Kate DeVries Smith, with Joseph Lee also in attendance. Applicants wish to thank Examiner Perez for the courtesy of conducting the interview. The claim amendments filed herewith were discussed and the content of Menard and Fitzgerald were discussed. In summary, regarding claims 1 and 14 it was agreed that the rejection based on the prior art of record would be overcome with the amendments filed herewith and that the Examiner will conduct additional prior art searching. Regarding claim 18 the Examiner believed that the rejection based on the prior art of record would be overcome with the amendments filed herewith and the Examiner will review the art in more detail to confirm.

In view of the above amendments and remarks, Applicants respectfully request a Notice of Allowance. If the Examiner believes an additional telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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